

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK----- X
MICHAEL SALCEDO,

Plaintiff,

-against-

XIAMEN DESIFU COMMERCIAL & TRADING
CO., LTD., and ZAIQUAN LIU,Defendants.
----- X**ORDER AND OPINION
GRANTING MOTION FOR
LEAVE TO SERVE PROCESS
BY ALTERNATIVE MEANS**

24 Civ. 5947 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Plaintiff Michael Salcedo seeks an Order authorizing alternative service of process on foreign Defendants in his trademark infringement lawsuit. The Defendants in this case are a foreign corporation, Xiamen Desifu Commercial & Trading Co., Ltd., and its principal, the corporation's CEO, Zaiquan Liu. Plaintiff requests authorization of service by certified mail on Defendants' trademark prosecution counsel in the United States, Jason L. DeFrancesco, Esq. As outlined below, Plaintiff's motion is granted.

Pursuant to 15 U.S.C. § 1051(e), trademark applicants "not domiciled in the United States . . . may designate . . . the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark." This suit, a trademark infringement action brought under the Lanham Act in which Plaintiff seeks to enjoin Defendants' use of the ALPHABET LORE mark, falls within the scope of "proceedings affecting the mark." *See Equibal, Inc. v. 365 Sun LLC*, 2023 U.S. Dist. LEXIS 62759, at *13-14, 16 (S.D.N.Y. Apr. 10, 2023). Accordingly, under § 1051(e), "notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy


thereof at the address specified.” If service upon the designated person cannot be effectuated, notices or process can be served on the Director of the United States Patent and Trademark Office (“USPTO”). 15 U.S.C. § 1051(e). Jason L. DeFrancesco is Defendants’ trademark prosecution counsel in the United States and filed a notice of appearance as the appointed counsel before the USPTO on June 27, 2024. *See* Pl. Motion for Alternate Service of Process, Ex. C, ECF No. 14. Given Mr. DeFrancesco’s position as the designated United States trademark prosecution counsel for Defendants, service upon him is reasonably calculated to inform Defendants of this action and comports with due process.

As such, under Fed. R. Civ. P. 4(h)(1)(B), the foreign Defendants may be served by delivering or mailing a copy of the summons and complaint to Defendants’ designated counsel, Jason L. DeFrancesco. If service upon Jason L. DeFrancesco shall fail, Defendants may serve the Director of the United States Patent and Trademark Office.

The Clerk shall terminate the motion, ECF No. 14.

SO ORDERED.

Dated: October 9, 2024
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge